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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-167**

12
13 **DEANNA KAYE CARTER**
a.k.a. Deanna Kaye Rivera
14 a.k.a. Deanna Kaye McGraw
5061 Escalon Circle
15 Richmond, CA 94803

A C C U S A T I O N

16 **Registered Nurse License No. RN 374498**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about August 31, 1984, the Board of Registered Nursing issued Registered
25 Nurse License Number RN 374498 to Deanna Kaye McGraw, later known as Deanna Kaye
26 Rivera, and now known as Deanna Kaye Carter (Respondent). The Registered Nurse License
27 was in full force and effect at all times relevant to the charges brought here and will expire on
28 March 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118 (b) of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Section 2770.11 of the Code states:

"(a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with the provisions of rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

"(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding."

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1 a. Between approximately 7:30 and 10:00 a.m., Respondent told a coworker and her
2 supervisor that she wanted to go home because she was experiencing neck pain.

3 b. By approximately 11:00 a.m., Respondent told her supervisor that she no longer
4 needed to go home because she had taken an undisclosed medication.

5 c. Between approximately 11:00 a.m. and 2:00 p.m., coworkers noticed Respondent
6 had difficulty focusing, had dilated pupils, and was acting strangely (smacking lips, rolling
7 tongue, swaying back and forth, and repeatedly attempting and to place a straw in a beverage
8 container).

9 d. At approximately 2:00 p.m., Respondent suffered a contusion after hitting her head
10 on a bed pole as she ran to prevent an intubated patient from getting out of bed.

11 e. Shortly after the accident, Respondent was ordered to go to the Emergency
12 Department to receive medical care for her injury. She was admitted to the Emergency
13 Department at approximately 3:00 p.m. At approximately 4:45 p.m., Respondent's supervisor
14 visited Respondent in the Emergency Department and asked Respondent whether she was taking
15 any narcotics. Respondent stated that she had Vicodin that had been prescribed for a dental
16 procedure. The supervisor then asked Respondent to submit to a drug test but Respondent
17 refused.

18 f. On or about July 15, 2009, Respondent admitted to the hospital's human resources
19 director that she refused the drug test because "you would have found something there." She then
20 asked, "Can I get help now?"

21 13. Respondent was terminated from her employment, but reinstated to a nursing position
22 at the hospital upon entering a settlement agreement where she agreed to enroll in and participate
23 in the Board's Diversion Program.¹ Respondent referred herself to the program on or about
24 August 31, 2009.

25 14. On or about December 15, 2009, Respondent was terminated from the Diversion
26 Program as an "Applicant Public Safety Risk" due to her "history of working under the influence"

27 ¹ The Diversion Program is a voluntary rehabilitation program for nurses whose practice
28 may be impaired due to chemical dependency or mental illness.

1 and after failing to comply with the program's requirements to sign up for drug testing with First
2 Lab and to submit documentation of: obtaining a 5-axis evaluation by a psychiatrist; finding an
3 out patient treatment program; and attending 12-step meetings.

4 CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct: Use of Dangerous Drug in Dangerous Manner)

6 15. Respondent has subjected her registered nurse license to discipline under sections
7 2761(a) and 2762(b) of the Code in that she used a controlled substance or dangerous drug in a
8 dangerous manner. The circumstances are set forth in paragraphs 10--13, above.

9 PRAYER

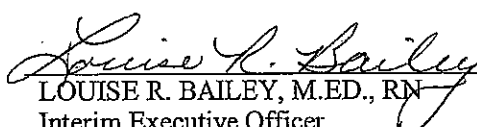
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

12 1. Revoking or suspending Registered Nurse License Number RN 374498, issued to
13 Deanna Kaye Carter;

14 2. Ordering Deanna Kaye Carter to pay the Board of Registered Nursing the reasonable
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions
16 Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 8/31/10

19 
20 LOUISE R. BAILEY, M.ED., RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
25 Complainant

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27 accusation.rtf
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